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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

**JUSTIN MICHAEL WILKENS,**

Plaintiff,

v.

**ROBERT WAYNE EDWARDS, in his  
individual capacity; THE STATE OF  
OREGON,**

Defendants.

Case No. 6:14-cv-00907-MC

**PLAINTIFF'S REQUESTED VOIR  
DIRE**

**QUESTIONS**

The plaintiff respectfully requests that the Court ask the prospective jurors the following questions during voir dire:

1. This is a lawsuit for civil rights violations brought by a citizen against a police officer. Is there any reason why you would have difficulty being completely neutral and fair in deciding this case if you are chosen to serve on the jury?
2. Is there anyone here who would prefer not to sit on a jury concerning a case of this kind?
3. Do any of you know the plaintiff, Justin Wilkens in this case?
4. Do any of you know the defendant Robert Edwards? His family? Or anyone you

believe may be related to him? If so, please explain the relationship/How well do you know them?

5. Have you or a member of your family had any involvement with any of the attorneys or their law firms? Lauren Regan or Cooper Brinson of the Justice Law Group? Andrew Campbell or Heather Van Meter of the Oregon Department of Justice? How?

6. Do any of you know any of the following people who may be witnesses in this case: Dr. Rick Richardson, Dr. Sheerin, Dr. Boespflug, William Cole, Tom Kamis, David Reich, Gary Monteleone, Ron and Kathy Lewis, Lane County Sheriff's deputy Tim Ware, OSP Troopers Scott Hite and David Peterson, OSP Major Mike Bloom or Mike McKee [add Defendants' witness names when known]? How well do you know them?

7. Do you, any member of your family, or anyone close to you have any present or former relationship with the Oregon State Police Department? Who? What was the connection and/or job?

8. Have you, any member of your family, or any close friend ever held a job with an agency or department engaged in law enforcement, including:

- a. the Oregon State Police Department
- b. a state or local police department or sheriff's department;
- c. a jail, prison, or youth offender center;
- d. the FBI, DEA, ATF, INS, Dept of Homeland Security, or any other federal department or agency involved in law enforcement;
- e. any prosecutor's office;
- f. any judge or Court
- g. the military police; or

- h. a parole or probation department or agency
9. Do you have any law enforcement training or education, or any training or education in a law enforcement related field? If so, please describe.
10. Same questions for the following:
- a. The court system or legal profession?
  - b. Medicine/Surgery/Slocum Orthopedics?
  - c. State or local government?
  - d. Insurance?
11. Are you acquainted with any judges or attorneys? Who? How well do you know them, what kind of law do they practice if you know?
12. Have you ever worked in a job that caused you to work with any law enforcement officer or agency? Please describe the job and the nature of your contacts with law enforcement.
13. Have you or anyone close to you ever had an informal relationship with any law enforcement agency or department, including a ride-along program, crime watch program, or any similar program or activity? Please describe.
14. Have you, or someone close to you, ever owned or driven a motorcycle? Describe. If so, have you ever worn a high-quality motorcycle helmet? Ever heard of, owned, or driven an Aprilia motorcycle? Anyone know anything about Aprilia motorcycles? What?
15. Anyone have any negative opinions or feelings or experiences with motorcycles? Describe.
16. Do you have any auto mechanic background, either professionally or personally? Describe.
17. Have you ever experienced “brake fade” while driving a car?

18. Anyone have any amateur or professional experience with street car or motorcycle racing? Racing cars or motorcycles on a track or streets? Brake fade in those circumstances?
19. Anyone ever been the victim of a rear-end collision? (Another car drove into the bumper of your car?) Describe? Anyone ever have that happen while on a motorcycle? Describe.
20. Are you familiar with Crow Road in Eugene, Oregon?
21. Did you know any of the other members of this jury panel before assembling for this jury panel? If so, in what way?
22. Have you ever served as a juror in the past? If yes, please state the following:
  - A. How many times?
  - B. When?
  - C. Were you a foreperson?
  - D. What type of case was it?
  - E. How did you feel about the case?
  - F. How did you feel about your jury service?
  - G. Without stating the result, did the jury reach a verdict?
  - H. Was the verdict for the plaintiff or defendant?
  - I. Do you understand the civil burden of proof in this case (go over it especially if they served on criminal cases)?
23. Please tell me about your current job. What is your workday like?
24. Please describe other types of occupations you have had in the past.
25. Please tell me about the work your husband/wife/partner does?
26. Please tell me about your children if you have them. How many? What ages/occupations?
27. Have you ever served in the military? What branch and what rank?
28. What is your educational background?
29. What organizations do you belong to? What organizations does your spouse or partner belong to?
30. Do any of you have a belief, whether moral, religious, or otherwise that would not allow

you to sit in judgment of another?

31. What are your primary sources of news and current events?

a. How often do you read/watch/listen to the news?

b. What online websites do you frequent for news and current events, if any?

c. Do you watch police shows on television? If so, which ones? What is your opinion of them?

32. Does anyone here feel for any reason that citizens who believe they have been treated illegally and unfairly should not bring suit against police officers? If so, please explain.

33. The Bill of Rights is to protect individuals against the government. Do you agree with that statement?

34. This case is about the Bill of Rights, particularly the Fourth Amendment which provides one of those protections against the government. The Fourth Amendment states, partially: The right of the people to be secure in their persons, houses, papers and effects, from unreasonable searches and seizures, shall not be violated... Will you uphold that Constitutional Right in this case if the evidence supports it?

35. There is, in turn, a federal civil rights law, called the Civil Rights Act, whose purpose is to give individuals whose rights, in this case their right to be protected from unreasonable searches and seizures, a remedy, in other words, the right to sue for money. This case will require you to work within this framework. Particularly, it will require you to determine whether the individual Defendant's actions were "reasonable," which is the word right out of the Fourth Amendment. Are you willing to perform your duty as citizens and members of the jury in this constitutional case?

36. Have you ever heard of or read about a police officer breaking the law and violating

someone's rights while on duty? If so, please describe.

37. Have you or anyone close to you ever had any contacts or dealings with the Oregon State Police Department? If so, please explain. What impression did those interactions give you?

38. Have you ever heard about the Oregon State Police from the news or social media? What have you heard? How did it make you feel?

39. Do you or a member of your family have any present or former relationship with a law enforcement officer? If so, please explain the relationship.

40. Have you or anyone close to you ever been a member of the Fraternal Order of Police? Have you ever made any contributions to the FOP or any other organization benefitting law enforcement?

41. Have you or anyone close to you ever been involved in what you would consider to be a negative or unpleasant situation with the police? If so please describe.

42. Have you or anyone close to you ever been arrested? If so, describe the circumstances and outcome of the incident.

43. Has anyone here ever witnessed an arrest?

44. Have you or anyone close to you ever been handcuffed? Describe. Were you or the person injured in any way during that process? Describe.

45. Have you ever exceeded the speed limit while driving your car or motorcycle on a public road or highway?

46. Have you or anyone close to you ever been pulled over and given a speeding ticket or traffic citation by police? If so, describe the circumstances and outcome of the incident. Anyone pulled over by Oregon State Police for a traffic matter?

47. Have you or anyone close to you ever been pulled over by an unmarked police car? (A

police car without obvious markings and/or lights?) Describe.

48. Have you or anyone close to you ever let your car insurance lapse either accidentally or otherwise? Did you receive a ticket for it?

49. Have you or anyone that you know ever been the target of physical force by a police officer? If so, please describe what happened, and your opinion as to whether the use of force by the police was justified.

50. Have you ever heard of police using excessive force on a citizen? What have you heard? How did you feel about it?

51. Have you or anyone that you know ever had a gun pointed at your head by a police officer? If so, please describe what happened, and your opinion as to whether the use of force by the police was justified.

52. Do you agree or disagree that police should assume the worst of citizens they come into contact with while issuing traffic citations? Should police assume that we want to do them harm and thus they should draw their weapons and point them at us?

53. Do you agree or disagree that police must display a professional and calm demeanor while on duty?

54. Should police attempt to gain compliance from a citizen using verbal commands before resorting to violence?

55. Is it ok for police to lose their tempers while engaging with a citizen?

56. Is it appropriate for the police to assume that citizens are bad and/or want to do them harm? Is it appropriate for the police to assume the worst about a person and thus justify using serious force against them?

57. As a result of your experiences with crime or law enforcement is there anything that

would cause you to lean in favor of the police defendant in this case?

58. What is your general view of the role of police in the community?

59. Have you ever videotaped the police or watched a video of police? Did you form an opinion about what you observed? Describe.

60. Some people feel that the job of police officers is so difficult that it is wrong to second-guess their actions or punish them for wrongdoing in the course of doing their jobs. Would you tend to agree?

61. In general, do you think you would be inclined to give greater weight to the testimony of a police officer than you would to an ordinary citizen? If so, why?

62. Do you think police receive any kind of training about how to testify in court?

63. Do you believe that police or public officials accused of wrongdoing routinely deny that they did anything wrong? Do you believe that they attempt to cover up any wrongdoing in which they may have engaged?

64. Are you open to the possibility of deciding that police officers sometimes lie while testifying under oath?

65. What are your opinions about how the problem of police misconduct ought to be handled? Do you think police officers should be held responsible for mistakes they may make?

66. What is your immediate reaction when you hear that someone is charging the police with excessive force or police misconduct?

67. This case involves claims by Justin Wilkens that a police officer used excessive force against him multiple times while stopping him on his motorcycle to issue traffic citations. Do you believe that you can be fair and impartial to both sides in determining this case?

68. Would you have any hesitancy about reaching a verdict for Mr. Wilkens merely because

this is a civil rights case against a police officer?

69. What is your first reaction when you hear that someone is accusing a police officer of police brutality or using excessive force? Violating a citizen's constitutional rights?

70. Have you or anyone close to you ever been a victim of crime? Please describe the incident. What was the outcome? Were you satisfied with the result?

71. Have you or anyone close to you ever sued or made a complaint against any law enforcement agency or police officer? If so, describe the incident upon which the complaints were based. How do you feel about the way your complaint was resolved?

72. When are the police justified in using force on a person?

73. If the judge were to instruct you that when a police officer pulls his weapon and aims it at a citizen, that is a police officer using force, would you agree that having a gun pointed at you is a form of force being used against you?

74. Do you think police should be limited when they can draw their weapons and point them at people?

75. Who thinks the police have an easy job?

76. Who think the police have a hard job?

77. Who thinks all police officers are bad people?

78. Who thinks all police officers are good people?

79. Who thinks some police officers are bad and some are good?

80. Who thinks a police officer should be held responsible if he violates someone's constitutional rights?

81. Is there anyone who will support the police officer so much, just because he is in law enforcement that you will be unable to judge the facts in this case fairly?

82. Do you believe that police officers use physical force against people too frequently?

Please explain why you believe this, or don't believe this, and describe any personal experience that has influenced your opinion.

83. Do you have any opinions about how the problem of police misconduct should be handled by society? If so, what are your opinions?

84. Some people have strong feelings about lawsuits. How many of you have read about or heard the media or people you know talk about tort reform, verdicts being too high, lawyers taking advantage, frivolous lawsuits, verdicts hurting businesses or similar topics? Please tell me about that. How do you feel about lawsuits? What do you think about tort reform? How do you feel about lawsuits brought by citizens against police?

85. Who here has heard of other cases in which the award was too high?

86. Who here has heard of a case when the award was too small? Is that possible?

87. Who here has heard of a case where a police officer was held liable for using excessive force against a person?

88. Is there anyone who feels that they will be unable to deliberate about money? Can you deliberate about money in a constitutional case?

89. Does anyone think that all cases should be settled out of court?

90. Have you read, heard about, or had any experience with persons who have sued to defend their constitutional rights? If so, please describe.

91. Do you feel that citizens who believe that they have been treated illegally and unfairly by police officers should not bring a lawsuit against them? If so, please explain.

92. Do you feel that police should be given the benefit of the doubt when they use force against people?

93. Describe your best and worst experiences with a law enforcement officer.
94. Have you or someone close to you ever taken photographs or video of an interaction between a police officer and a private citizen? Why did you do so, what was filmed?
95. Have you ever been a party to a CIVIL lawsuit, as compared to a criminal case where usually someone was arrested and charged with a crime? If so:
- a. Were you suing or being sued?
  - b. What was the case about?
  - c. What was the outcome?
  - d. How did you feel about the outcome?
  - e. Did that experience affect your opinion of our legal system?
  - f. Do you think that experience will affect the way you look at the evidence in this case?

Explain.

96. Has anyone ever worked odd jobs to earn money? Know anyone that has?
97. Do you agree or disagree that holding police accountable for their actions protects our communities and makes them safer?
98. Do you feel that jurors have an important role in evaluating whether or not a police officer used too much force when a citizen is injured by a police officer?
99. Would you feel that you or members of your family might be somewhat embarrassed if it were to become known that you had sat on a jury that brought in a verdict in favor of an ordinary citizen and against a police officer?
100. Some people think that even though the police make mistakes or use more force than is necessary, that is the price we have to pay for police protection. What's your reaction to that?
101. If you found the defendants liable in this case, would you feel that you had to keep your

monetary award low or make it high for any particular reason?

102. Some people think giving money for pain and suffering is ok, other people might have trouble giving money for pain and suffering. How many of you are closer to people who think providing a money award for pain and suffering is ok? How many of you are closer to the people who would have trouble giving money for pain and suffering? Uncertain? Please tell me about that.

103. Who here has-or knows anyone who has-ever been a victim of police misconduct or abuse? Please tell me about that.

104. Who here has-or knows anyone who has ever broken their clavicle or collarbone? Had metal plates and/or screws surgically implanted in their body to help heal a broken bone?

105. Do you have an opinion about how to balance the need for safety with everyone's constitutional rights? If so, what is your opinion?

106. Are you comfortable with trying to decide, after the fact, whether a police officer acted appropriately or legally on the job?

107. In a civil case, the burden of proof is by a "preponderance of the evidence," in other words, is it "at least a little more likely than not" that the defendant is liable or responsible for the plaintiff's harms. This is unlike the higher burden of proof in a criminal case, in which the standard is "beyond a reasonable doubt." Do you understand the difference between preponderance of the evidence and beyond a reasonable doubt? Do you think this standard is fair or unfair? Why or why not?

108. In addition to whether the defendants violated Mr. Wilkens' constitutional rights, a question on the verdict form will be how much money Mr. Wilkens should receive to compensate him for his claim. When figuring this out, some folks feel you should only consider

the amount of harm that he suffered. Other people may feel it is important to consider other things, such as how sorry they might feel for the plaintiff, whether the defendants can afford it, whether awarding money would make people not want to become police officers, whether awarding money might cause Oregon to raise taxes, and whether the money would do any good or would be a windfall to Mr. Wilkens. How many of you are closer to people who would base their verdict amount only on the amount of harm? How many of you are closer to the people who think it's important to take those other things into account? Please tell me about that.

a. The reason I am asking about matters other than the amount of harm is because the judge will tell you that the law requires you to figure out the dollar amount of compensation for the verdict form based only on the amount of harm. Nothing else. That is the law. Now knowing that, who might still have trouble factoring everything else out, except for the amount of harm?

109. Does the idea of having to decide whether the defendants in this case should compensate the plaintiff cause you any concern?

110. Compensation is money to balance harm. Punitive damages are to punish whoever did the harm and to stop their wrongdoing and the wrongdoing of others in the future. Some folks believe that works. Others think punitive damages don't work. What is your best guess about it? Which way do you lean?

111. Would you require Mr. Wilkens to prove his case by anything more than a preponderance of the evidence standard, that "more likely than not" standard we just talked about, because he is accusing police officers of misconduct?

112. Do you feel that there should be limits on the amount or the kinds of damages that a person can recover where the police have used excessive force against that person?

113. Who believes that a person should not be able to recover money for harms such as physical pain and suffering, anxiety, fear, sleeplessness, and emotional distress in a lawsuit? Why or why not?

114. Do any of you belong to any voluntary organizations, groups or clubs of any kind? To which groups do you belong and how frequently do you attend meetings or functions?

115. Given the kind of person you are, your attitudes, life experiences, opinions, everything about you, what is there about you that might help you, even a little, in being a juror on this kind of case? Other than your ability to be fair and listen to both sides? Anything in your experiences and attitudes that might make it a little bit harder for you to be a juror on this kind of case?

116. Do you believe you already have any predisposition to favor one side or the other in this case? If so, why? If the plaintiff and defendant were running a race, who would be in the lead at this point in the trial?

**To be asked at the conclusion of any attorney conducted voir dire:**

117. Anyone who for any other reason just does not want to be here?

118. Anyone who feels they cannot be fair to both sides?

119. Anyone who feels they cannot deliberate – talk to one another, and listen to each other?

120. Anyone who believes you would be unwilling to render a verdict for Plaintiff if the facts as you find them and as you read the instructions from the judge call for such a verdict?

121. Police officers will be witnesses. Can you keep an open mind and be fair when listening to these officers?

122. Do any of you have any matters that you would like to take up privately with the judge or outside the presence of your fellow jurors?

DATED December 10, 2015.

/s/ Lauren C. Regan  
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### CERTIFICATE OF SERVICE

I certify that on December 13, 2015, I served or caused to be served a true and complete copy of the foregoing Plaintiff's Requested Voir Dire, on the party or parties listed below as follows:

  X   Via CM/ECF Filing  
       Via First Class Mail, Postage Prepaid  
  X   Via Email  
       Via Personal Delivery

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